

Minutes of Regular and Special Meeting of October 11, 2005

CLOSED SESSION - 7:00 P.M.

- A. Conference with Real Property Negotiator, Finance Director Thomas Fil, Pursuant to Government Code Section 54956.8, for property located at the Sports Center APN #040-360-390

Attended by Councilmembers Feierbach, Bauer, Mathewson, Metropulos, Warden, City Attorney Zafferano, Interim City Manager Jack Crist, Finance Director Fil. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:15 P.M.

Terri Cook
Belmont City Clerk

Meeting not audio recorded or videotaped.

REGULAR MEETING

CALL TO ORDER 8:40 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Mathewson, Bauer, Metropulos, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Crist, City Attorney Zafferano, Interim Community Development Director deMelo, Human Resources Director Dolan, Public Works Director Davis, Fire Chief Lowden, Information Services Manager Harnish, Police Chief Mattei, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by City Clerk Cook.

REPORT FROM CLOSED SESSION

Mayor Warden stated that direction was given but no action taken during the Closed Session held earlier in the evening.

SPECIAL PRESENTATIONS

Proclamation Honoring Eagle Scout Justin Vinay

Mayor Warden announced that Mr. Vinay was unable to be present this evening, and this matter would be continued to the October 25th meeting.

PUBLIC COMMENTS AND ANNOUNCEMENTS

C.A. Reitmeier, Belmont resident, commented that she would like to honor emergency first responders, Belmont soldiers, and victims of disasters. She noted that Fire Station 14 personnel responded to medical emergencies of both of her parents prior to their death.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Metropulos announced that the amount of money collected by Central School students for DeRidder, Louisiana had increased to \$3,000. He noted that a collection can was available in the City Clerk's office, and that DeRidder still needed additional funds to assist with infrastructure repair following Hurricane Katrina.

AGENDA AMENDMENTS

Councilmember Bauer requested the removal of Consent Item 4-C (Resolution Approving the Conversion of a Loading Zone to a 15-Minute Parking Zone (8am to 7pm) Adjacent to 1501-F El Camino Real) for separate consideration.

CONSENT CALENDAR

Approval of Minutes of Special Meeting of September 12, 2005, and Regular Meeting of September 13, 2005.

Approval of Resolution 9707 Authorizing the City Manager to Execute the Certificate of Acceptance for the Interests in Real Property Located at 700 Island Parkway (APN 040 360 400) Conveyed from Lucas Trust Properties LLC, to Execute any Documents for the Sale of Excess Land (located between APN 040 360 400 and APN 040 360 480) and Enter into an agreement with Lucas Trust Properties LLC for the Lease of Air Space Under the Island Parkway Bridge Structure.

Approval of Minor Revision to Framed Belmont City Poem.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Metropulos, the Consent Calendar was unanimously approved, as amended, by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Approving the Conversion of a Loading Zone to a 15-Minute Parking Zone (8am to 7pm) Adjacent to 1501-F El Camino Real

Public Works Director Davis stated that the adjacent business, Sylvan Learning Center, originally requested the loading zone, but it was no longer working for them. He noted that per the City's policy on parking, the adjacent property owner has a prevailing say on adjacent parking restrictions.

In response to Councilmember Bauer, Public Works Director Davis responded that drivers are prohibited from exiting the vehicle in a loading zone, but enforcement is difficult. He noted that both the Belmont Police Department and the Parking and Traffic Safety Committee recommend the change to 15-minute parking.

Councilmember Bauer stated he wants to provide flexibility for the business.

ACTION: On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, Resolution 9708 Approving the Conversion of a Loading Zone to a 15-Minute Parking Zone

(8am to 7pm) Adjacent to 1501-F El Camino Real was unanimously approved by a show of hands.

HEARINGS

Public Hearing to consider an appeal filed on August 12, 2005 by Jacklyn Popiul, regarding Planning Commission action taken on August 2, 2005, approving a Single Family Design Review to allow construction of a new Single Family Residence for property located at 2303 Casa Bona Avenue (Appl. 2005-0019)

Interim Community Development Director de Melo stated that the Planning Commission made the appropriate decision based on the existing regulations, and there is not sufficient basis to overturn its decision regarding this matter. He added that the City arborist (Levinson) provided a written analysis of the appellant's arborist report.

Mayor Warden opened the Public Hearing. He explained the time limits for the Appellant, Applicant, public speakers, and rebuttal comments.

Nancy Chillag, Attorney for Appellant, stated that the Appellant objects to the development, and is concerned about the impact of the project on their Monterey pine tree. Its root system and canopy is located on the proposed site, and one-third of the canopy will be destroyed, which will cause the tree to die. She acknowledged that it is not a protected tree, but it has value, and the Planning Commission abused its discretion since it did not address the affect of the project on the tree. She noted that the arborists acknowledge that the tree will be damaged if the project proceeds.

Ms. Chillag stated that during neighborhood outreach, the project applicant acknowledged Mrs. Popiul's concerns, and advised that the arborist would address her concerns, but never did. No changes were made to the project following neighborhood outreach. She commented that one of the purposes of design review is to address tree preservation.

Linda Romero, Arborist for Appellant, described the Monterey pine tree located on the Appellant's property. She stated it provides privacy, noise abatement, and is a habitat for wildlife. The tree would die if the proposed project were built. She recommended increasing the tree protection zone to 22 feet. She noted that the canopy of the tree would need to be stripped 25 feet from its base to make room for the house. She also noted that the ideal timeframe for tree work is November through February.

George Belden, Project Applicant/Casa Bona Avenue, stated that the Appellant's arguments are not supported. He clarified that the project does not require a large amount of grading. The proposed home is not three stories, is stepped back from the street, and is compatible with others in the neighborhood. The San Mateo County tree ordinance, cited by Appellant, is not applicable in Belmont. No variances are required. Other neighbors support the project. He does not intend to sever the roots on the Monterey pine tree in question, and the arborist's report addresses this issue.

Mr. Belden clarified that various layouts were explored, and the final design was dictated by City regulations. He noted that the driveway follows the contour of the slope to minimize grading.

Changing the location of the garage would not make any difference, and its proposed location appears to be the best of all options. He stated the Appellant desires only a vacant lot and has tried to stop the project. They were given plans and requested additional time to review them, but he did not hear from them again until the Planning Commission hearing, when they came with their attorney and arborist. Now the project is delayed with this appeal, due to the City's grading moratorium.

Mr. Belden stated that the pine tree is at the end of its life, is not in good condition, and negatively impacts surrounding oak trees. The Appellant's property would be more valuable without the pine. He commented that he should not be denied the right to build a reasonable home on a vacant lot over which a neighbor's tree has grown.

Nancy Chillag, Attorney, stated that Council's vote will kill the tree or save the tree, and that the City and the Appellant's arborist agree that the tree will die. She clarified that the Appellant is not asking that there be no development on this property.

Jacklyn Popiul, Appellant/Read Avenue, stated that she recently attended the City of Belmont's All Hands meeting where it was announced that the City Council was proud of the new City Hall. She noted that input into this project made it a success. She stated that no picture of a finished product was provided for this proposed new home, and there was no information given regarding the monetary, physical, or environmental affect on the neighborhood. The three-story structure is not compatible with the neighborhood. This is a quality of life issue. Her husband has cared for this tree for 32 years in the manner recommended by an arborist. It is not diseased. The City should be protecting all living things, including trees.

George Belden, Applicant, stated that his proposed house is compatible with the neighborhood, and will be constructed with quality materials. He commented that the City's arborist recommended that the pine tree be removed.

C.A. Reitmeier, Belmont resident/2303 Casa Bona property owner, stated that she is looking into the issue of trees and tree preservation, and has become educated about pine trees. She noted that an arborist could not guarantee where the roots of a tree are located.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Bauer, the Public Hearing was unanimously closed by a show of hands.

Councilmember Metropulos commented that the Planning Commission is always meticulous in its deliberations on matters before it, and questioned why this pine tree was not addressed at length. Interim Community Development Director de Melo responded that the Commission must address eight findings, including protected trees, and has more latitude in its findings relative to protected trees. Unprotected trees are an issue between property owners. He added that the arborist has determined that the tree is in decline.

In response to Councilmember Warden, City Attorney Zafferano stated that remedies are available in civil court should the pine tree die as a result of the home being built.

Councilmember Bauer agreed this is an issue between property owners. It is difficult to address overhanging trees. He noted other neighbors approved the project, and he supports the Planning Commission's decision.

Councilmember Mathewson stated that private views are not protected, and the pine is not a protected tree. County rules cannot be applied, as Belmont's tree ordinance takes precedence. He too supports the Planning Commission's decision.

Councilmember Feierbach stated that Belmont's tree ordinance is weak, and Belmont has no view ordinance, but needs both. She supports the Planning Commission's decision. She suggested the neighbors work together to resolve this issue, but noted there may not be a solution. She is an advocate for trees.

Councilmember Metropulos stated that feelings must be set aside and the law applied in issues such as this one. He noted that one does not own views or airspace. The findings support the Planning Commission's decision. He recommends that the neighbors work together regarding the root protection zone. City Council should not prevent a home to be built because of a tree. He noted that civil remedies are available should there be a problem with the tree.

Mayor Warden stated that there is a range of construction that could take place on this property without any intervention from the City. He agreed with comments made by the other Councilmembers, and supports the Planning Commission's decision.

ACTION: On a motion made by Councilmember Bauer, seconded by Councilmember Mathewson, Resolution 9709 Upholding The Planning Commission's Decision to Approve a Single Family Design Review at 2303 Casa Bona Avenue (Appl. No. 2005-0019) was unanimously approved by a roll call vote.

Public Hearing to Consider Revisions to Municipal Code Chapter 14, Motor Vehicles and Traffic (on-street parking of RV's, boats, trailers). (Continued from September 13, 2005.)
City Attorney Zafferano outlined the previous meetings held regarding this matter, and noted that all issues raised in prior discussions have been addressed.

Mayor Warden noted that the Public Hearing on this item was still open since the continuance from the September 13th meeting. No one came forward to speak.

ACTION: On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, the Public Hearing was unanimously closed by a show of hands.

Councilmember Mathewson stated that after further consideration, he does not support the increase in vehicle height limits to accommodate see-through racks. He noted that the racks are often filled with items, so they cannot be seen through.

Councilmember Bauer stated that larger vehicles owned by contractors need to be accommodated.

Councilmember Metropulos stated he would support the ordinance as proposed.

In response to Mayor Warden regarding enforcement of the see-through racks, City Attorney Zafferano clarified that this is a subjective enforcement, but he added that other areas in the vehicle code are also subjective.

Councilmember Feierbach expressed concerns regarding enforcement of the see-through provision. She supported setting the height limit at 6 feet 6 inches with no see-through provision. She stated that people with larger vehicles should park in their driveways so they do not obstruct the street.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Feierbach, and approved by a show of hands (4-1, Bauer no) to introduce an ordinance by title amending Municipal Code Chapter 14, Motor Vehicles and Traffic (on-street parking of RV's, boats, trailers), said motion to include setting vehicle height limit at 6 feet 6 inches, to waive further reading, and set second reading and adoption for October 25, 2005.

OLD BUSINESS

Status Report on Holiday Banner Program

Interim City Manager Crist stated that many of the light poles along Ralston Avenue need further analysis and repair in order to accommodate banners, and recommended that the holiday banner program be postponed to the 2006 holiday season.

Judy King, Fifth Avenue, recommended that the City procure holiday greeting banners for the banner poles across Ralston Avenue. She provided information regarding large red bows that could be installed on the light poles as an alternative. She stated the costs were not high, and this could be a solution for 2005.

Councilmember Feierbach stated she supported looking into these recommendations. She also recommended encouraging businesses to install lights in the street trees adjacent to their businesses.

Councilmember Metropulos stated that input from Public Works would be needed for Ms. King's recommendation. Public Works Director Davis responded that the bows should be large enough to be readily seen.

Bill Dickenson, Chesterton Avenue, stated that encouraging economic development is the goal behind the banner proposal. He recommended that the City provide vouchers for businesses to repaint their storefronts, to plant a tree, or to fix a sign. He stated that \$22,000 was too much money for this proposal, and he expressed the need to reach out to businesses.

Council concurred to have staff research the bow and banner pole solution and to agendize this item at the next meeting for further consideration.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Americans with Disabilities Act Access Update, Report on Recent Activities with the Center for Independence of the Disabled

Public Works Director Davis provided a history of the Americans with Disabilities Act (Title I), and outlined details of the City's compliance with those requirements, including the approval of a compliance plan in 1995. He reviewed completed and upcoming projects during the past several years. He stated that an intern performed a survey of curb cuts and ramps in Belmont a number of years ago, and that some ramps are no longer in compliance. The curb cuts recently installed for the in-pavement crosswalk flashers were in compliance, but the standards may be changing. The City needs to prioritize ADA needs throughout the City.

Staff has been conferring on this issue with representatives from the Center for the Institute for the Disabled (CID). CID staff commented that the pavers in the downtown area present difficulties for people in wheelchairs. He noted that signal timing will be reviewed to better assist the disabled at various street crossings. Staff will apply for grants as appropriate in order to implement changes.

In response to Council questions, Public Works Director Davis clarified that this is an unfunded mandate, and there is no timeline for compliance. He noted that if a city has a plan, and are implementing some part of the plan, it is usually safe from enforcement, since there is a good faith effort at compliance. He clarified that slope specifications are set forth in legislative guidelines.

Pedestrian Flag Program Update

Public Works Director Davis outlined the pedestrian flag program utilized in other cities. He noted that the information he obtained does not provide definitive results of safety, and that pedestrians may not use due caution when crossing the street.

Councilmember Bauer stated that this program has good intentions, but does not function well since it gives pedestrians a false sense of security.

Mayor Warden stated that the program is difficult to evaluate, as it depends on location and the type of users. He noted that this may work well at Chula Vista and Ralston Avenues, but is not the ultimate answer. He commented that one option would be to eliminate the crosswalk completely.

Councilmember Feierbach expressed concern regarding the safety of drivers and the flag system. She noted there may be other options.

Councilmember Metropulos stated there are no statistics regarding accidents.

Council concurred not to pursue the use of a pedestrian flag program.

COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES

Councilmember Bauer gave a brief overview of the recent League of California Cities Annual Conference held in San Francisco. Noted speakers included Anthony Williams, Mayor of Washington, D.C., and Governor Schwarzenegger. He noted there was contentious discussion

and a close vote to support Proposition 76 on the November ballot. He stated he voted no on behalf of the City of Belmont.

MEETING EXTENSION: At this time, being 10:30 P.M. on a motion by Councilmember Mathewson, seconded by Councilmember Bauer, the meeting was unanimously extended by 30 minutes by a show of hands.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of Acquisition of Plasma TV for the lobby of City Hall to provide electronic bulletin board information for the public (Bauer).

Councilmember Bauer stated that other cities have electronic information available in their city halls. He expressed concern regarding the sensitivity of plasma, and suggested the use of LCD. He also expressed concern regarding the security of mounting a TV.

Councilmember Feierbach recommended moving the tree sculpture to the third floor to accommodate the plasma TV.

Information Services Manager Harnish stated the TV could be ceiling mounted. She noted the information to be shown could be tied to the electronic bulletin board on Channel 27.

Mayor Warden stated the information would be useful to the public. He recommended this be placed on the Council's Priority Calendar, which would be addressed at the next meeting.

Councilmember Mathewson stated if the item requires less than 20 hours, it would not need the Priority Calendar process.

Council concurred to move forward with this item and to have the TV installed in time for the Grand Opening in December.

Consideration of changing parking regulations at newly acquired future park site at Casa Bona and Semeria Avenues (Feierbach).

Councilmember Feierbach stated that cars are parked on the vacant lot at Casa Bona and Semeria, which should be prohibited. She noted that existing city ordinances prohibit parking on dirt.

Public Works Director Davis stated that the current signs and parking configuration at that location were installed at the direction of former Parks and Recreation Director Mittelstadt.

Council concurred to have staff prepare a resolution prohibiting parking on this vacant lot.

ADJOURNMENT at this time, being 10:40 P.M.

Terri Cook
Belmont City Clerk

Meeting Tape Recorded and Videotaped

Audio Recording 619
Minutes approved 11/9/2005